

UNITED STATES DISTRICT COURT

for the

Middle District of Alabama

United States of America

v.

Xiaoqin Yan

Case No. 2:21mj141-SRW

Defendant(s)

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of September 30, 2021 in the county of Montgomery in the
Middle District of Alabama, the defendant(s) violated:

Code Section

18 USC 844(i)

Offense Description

Arson

This criminal complaint is based on these facts:

See Attached Affidavit.

☒ Continued on the attached sheet.*Complainant's signature*

Richard K. Maddox, Special Agent, ATF

Printed name and title

Sworn to before me and signed in my presence.

Date: 10/05/2021/s/ Susan Russ Walker*Judge's signature*City and state: Montgomery, ALSusan Russ Walker, U.S. Magistrate Judge*Printed name and title*

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

AFFIDAVIT IN SUPPORT OF CRIMINAL COMPLAINT

I, Richard K. Maddox, a Special Agent with the Bureau of Alcohol, Tobacco, Firearms and Explosives, being duly sworn, state the following:

Introduction and Agent Background

1. I am a Special Agent (SA) with the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), United States Department of Justice. As such, I am a “federal law enforcement officer” within the meaning of Federal Rule of Criminal Procedure 41(a)(2)(C), that is, a government agent engaged in enforcing the criminal laws and duly authorized by the Attorney General to enforce federal laws.

2. I have been employed as a Special Agent with ATF since July 2013. I am a graduate of the Federal Law Enforcement Training Center and the ATF National Academy. I am currently assigned to the Montgomery Field Office. Prior to my employment with ATF, I was employed as a police officer with the Hoover, Alabama, Police Department for seven (7) years. I was assigned as a Detective in the Crimes Against Property Unit for two (2) years and worked patrol for five (5) years. I was also assigned to the Special Response Team (SWAT Unit) for four (4) years. I was also employed as a Deputy Sheriff with the Jefferson County Alabama Sheriff’s Office for three (3) years. I received my bachelor’s degree in Criminal Justice from the University of Alabama at Birmingham and my master’s certificate in Explosives Engineering from Missouri University of Science and Technology.

3. As an ATF Special Agent, I am vested with the authority to investigate violations of Federal Arson and Federal Firearms Laws under Title 18 and Title 26 of the United States Code. As a result of my training and experience as an ATF Special Agent, I am familiar with Federal

Criminal Laws, including violations of Title 18 U.S.C. Section 844(i), which is the basis for this affidavit. Specifically, Title 18 U.S.C. Section 844(i) provides:

Whoever maliciously damages or destroys, or attempts to damage or destroy, by means of fire or an explosive, any building, vehicle, or other real or personal property used in interstate or foreign commerce or in any activity affecting interstate or foreign commerce shall be imprisoned for not less than 5 years and not more than 20 years, fined under this title, or both; and if personal injury results to any person, including any public safety officer performing duties as a direct or proximate result of conduct prohibited by this subsection, shall be imprisoned for not less than 7 years and not more than 40 years, fined under this title, or both; and if death results to any person, including any public safety officer performing duties as a direct or proximate result of conduct prohibited by this subsection, shall also be subject to imprisonment for any term of years, or to the death penalty or to life imprisonment.

4. The information in this Affidavit is based on my personal involvement in the investigation of this case; law enforcement reports, records, and interviews; information received from other law enforcement agents; my experience and training; and the experience of other agents. Because of this Affidavit's limited purpose, it does not contain all of the facts known to me or other law enforcement officers about the investigation. Specifically, I have set forth only those facts that I believe are necessary to establish probable cause.

Probable Cause

5. On Thursday, September 30, 2021, the Montgomery Fire Department (MFD) responded to the First Baptist Church of Montgomery located at 305 South Perry Street, Montgomery, Alabama 36104, due to the report of a fire inside the building. A review of the church's surveillance video showed an unidentified person setting fires inside the church building. The ATF Montgomery Field Office was contacted by the MFD, and ATF special agents responded to the scene. During a review of the scene by ATF special agents, agents observed what appeared to be multiple points of origin of the fires set in the church. A point of origin is a point where investigators believe a fire originated. In this instance, investigators observed points of origin for separate fires in three different buildings on the church campus, none of which were connected to

each other. Evidence samples of burnt carpet and tin cans with burn marks were collected from those areas for submission to the ATF laboratory for examination to confirm the presence of ignitable liquid.

6. While processing the scene at the church, ATF Special Agent (SA) Richard Maddox advised that he smelled a strong odor of gasoline and, based on his training and experience, believed that gasoline was used to ignite the fires.

7. While ATF special agents were on scene, the pastor of the church, Mark Bethea, was interviewed by ATF SA Julius Porter. Bethea stated to SA Porter that on Sunday, September 26, 2021, he interacted with a small in stature Asian female after the service. Bethea advised that he ultimately escorted the female from the premises of the church. According to Bethea, approximately a couple of weeks before the fire, church security had previously interacted with an Asian female that was acting suspiciously and obtained the license plate number from the vehicle she was driving. The church security also observed two blue duffel bags with white writing inside the vehicle when they obtained the license plate number. The license plate number obtained by the church security was provided to law enforcement on September 30, 2021, as [REDACTED], which is registered in the Law Enforcement Tactical System (LETS) to Xiaoqin YAN (A/F, DOB: [REDACTED] 1994). The vehicle is better described as a brown 2001 Buick LeSabre, four-door passenger vehicle, VIN: [REDACTED]

8. On September 30, 2021, ATF SA Maddox reviewed surveillance video captured by the First Baptist Church of Montgomery's surveillance system. SA Maddox observed a person carrying two blue duffel bags with white writing approach the church wearing a hat, mask, and gloves on September 29, 2021, at approximately 7:30 pm, while the church was having services. Further review of the surveillance video determined the person to be a female of Asian descent.

The surveillance video shows the female enter the church building carrying the bags. Just after 2:00 am, surveillance video shows the same female approach the reception desk and remove a silver container from a bag and attempt to light it. After several attempts, the substance in the silver container ignited, and the subject threw it through a hole in the window into the reception area, causing the immediate area to catch fire. The subject stepped back and moved out of view of the camera. This action was repeated multiple times throughout the church. Surveillance footage showed an Asian female enter the church with blue bags. It then showed her leaving the area in which agents suspect she set the last fire in the church with what appears to be the same bags. Agents did not find blue bags, or parts of a blue bag, at the scene after the incident. However, several silver containers with burn marks were recovered from the locations where fire was observed.

9. On September 30, 2021, law enforcement officers conducted interviews with the church staff, including Pastor Bethea, who stated the female observed in the surveillance video appeared to be the same female that was escorted off the church premises on Sunday, September 26, 2021, by Pastor Bethea.

10. On September 30, 2021, ATF SA Stephen Thompson and ATF TFO Jeffrey Ioimo canvassed the area for additional surveillance video footage. During the canvass, surveillance videos were obtained depicting what appeared to be a Buick LeSabre leaving the driveway of the church parking lot at approximately 2:20 am. The vehicle turned out of the church parking lot taking a left onto Lawrence Street, then a right onto Adams Avenue. Additional surveillance video was obtained showing the same vehicle driving at a high rate of speed traveling east on Adams Avenue toward S. Decatur Street. Additional surveillance video was obtained showing the same

vehicle continuing to drive at a high rate of speed running a red light at S. Decatur Street and High Street while travelling south on Decatur Street.

11. On October 1, 2021, ATF SAs Bowen and Maddox conducted an interview with Madison Gillis. Gillis stated she saw an Asian female enter the church on September 29, 2021, from the church courtyard with two blue bags and silver containers used for food. Gillis thought it was odd but assumed she was maybe bringing food for the international club. Gillis stated that she did not smell any odor and that the Asian female did not say anything to her.

12. Later that day, on October 1, 2021, ATF SAs Bowen and Maddox interviewed Ronald Phillips, a custodian at the church. Phillips stated he first was introduced to an Asian female on September 15, 2021, by the security guard. Both Phillips and the security guard thought the Asian female was acting odd because she left the church with long hair and then came back after hours with short hair. Phillips stated he saw the Asian female exit from a brown Buick in the church parking lot and enter the church. Phillips stated she asked questions about the church's cameras, wanted to be shown around, and made a comment about the church's past pastors being "rich white men." Phillips stated the second time he saw her she stated she was looking for her friend; however, he made a note that she was in an odd place in the church.

13. On October 1, 2021, a state arrest warrant was issued by the Honorable Judge Derrick James for Xiaoqin YAN for Arson 2nd Degree. The warrant was turned over to the United States Marshals Service Gulf Coast Regional Fugitive Task Force.

14. On October 4, 2021, ATF agents participated in a joint arrest warrant with the United States Marshals for YAN. YAN was located at [REDACTED] Montgomery, AL 36116. While clearing the residence for additional persons, law enforcement officers opened a closet and observed in plain view two blue duffel bags with white writing and a red gas container.

These duffel bags appeared to be the same duffel bags the suspect was observed carrying on the church surveillance video. Also in plain view were black clothing and a black hat with a silver brim as seen on the surveillance video from the First Baptist Church. YAN was taken into custody for the outstanding warrant for Arson 2nd Degree.

15. While agents were executing the arrest warrant, they observed a brown 2001 Buick LeSabre, four-door passenger vehicle, VIN: [REDACTED] which is registered to YAN, parked in the apartment complex parking lot near YAN's residence.

16. On October 4, 2021, ATF SAs executed a search warrant signed by the Honorable Susan Russ Walker, United States Magistrate Judge for the Middle District of Alabama, at [REDACTED] [REDACTED] Montgomery, Alabama 36116. During the execution of the search warrant, the following items were seized from the above listed address:

- a. Car keys;
- b. Red iPhone with clear case;
- c. SCCY, Model CPX-2, 9mm semiautomatic pistol, S/N: 226112;
- d. Firearm magazine loaded with ammunition;
- e. Photocopy of passport for YAN;
- f. Coleman lighter;
- g. Surgical masks (1 blue and white, 1 black);
- h. Clothing (2 pair black pants, 1 black shirt, 1 pair black socks, 1 pair of black shoes, 1 black hat with silver brim);
- i. Red Vivo cellular telephone;
- j. Three receipts from Walmart for the purchase of lighters, duffel bags, gas cans, and starter logs;
- k. Red gas can;

- l. Blue duffel bag with red gas can;
- m. Blue duffel bag with lighters, starter logs, and gloves;
- n. Metal tin;
- o. American Eagle ammunition box with 2 rounds of ammunition;
- p. Document authored by YAN to Director, Texas Service Center; and
- q. Document received by YAN from U.S. Citizenship and Immigration Services.

17. On October 4, 2021, ATF SAs also executed a search warrant signed by the Honorable Susan Russ Walker, United States Magistrate Judge for the Middle District of Alabama, on a 2001, Buick LeSabre Limited, 4 door, 6 cylinder, vehicle, VIN: [REDACTED] bearing license plate [REDACTED]. The vehicle is registered to Xiaojin YAN. The following items were recovered from the vehicle:

- a. Personal diary notebook;
- b. Duffel bag tag matching the duffel bags recovered from the apartment;
- c. No slip glove packaging matching the no slip gloves recovered from one of the blue duffel bags at the apartment;
- d. One glove with burn marks; and
- e. Multiple rounds of F.C. 9mm Luger ammunition in a Reynolds bag.

18. The First Baptist Church of Montgomery financially supports and funds international and foreign missions, as well as churches located in other countries. For instance, the First Baptist Church of Montgomery sends money through wire transfers from the church's operating account at Synovus Bank to the Uttermost International account at Morton Community Bank, located at 201 Clock Tower Drive, East Peoria, Illinois 61611. That money is then sent to

India to fund local churches in India that were founded by the First Baptist Church of Montgomery. This is a recurring expense paid by First Baptist Church of Montgomery.


19. In addition, the First Baptist Church of Montgomery operates a daycare center and preschool on its campus located at 305 South Perry Street, Montgomery, Alabama 36104, an activity affecting interstate commerce. The daycare/preschool is located in the same building as the main sanctuary, which is where one of the fires was started. In fact, due to the damage caused by the fire, the daycare/preschool is temporarily closed until the fire damage is mitigated.

20. The First Baptist Church of Montgomery's daycare/preschool is licensed through the Alabama Department of Human Resources and has been licensed since it began operating 24 years ago. As a result, the church is required to meet certain performance standards and other requirements regulated and enforced by the state. In addition, the daycare/preschool purchases various equipment and supplies from out-of-state vendors, including recreational items, special changing tables, and so on. In fact, the daycare/preschool, using a grant from the state of Alabama, recently purchased out-of-state equipment and materials totaling approximately \$15,000.

21. For a fee, the church's daycare/preschool offers childcare services for children from 6 weeks old through 4-year-old pre-K and operates year round, Monday through Friday, from 6:30 am to 5:30 pm. Specifically, First Baptist Church of Montgomery charges approximately \$130 per week for childcare services for children over the age of 18 months old and \$135 per week for childcare services for children under the age of 18 months old and currently has approximately 57 enrolled children from Montgomery County and at least two surrounding counties. In all, First Baptist Church of Montgomery bills approximately \$8,000 per week, approximately \$32,000 per month, or approximately \$385,000 per year for its childcare services.

22. Based upon the information set out above, there is probable cause to believe that on September 30, 2021, Xiaoqin YAN maliciously damaged or destroyed, or attempted to damage or destroy, by means of fire, a building, vehicle, or other real or personal property used in interstate or foreign commerce or in any activity affecting interstate or foreign commerce, in violation of 18 U.S.C. § 844(i). Based on the foregoing, I request that an arrest warrant be issued for Xiaoqin YAN.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read 'R K Maddox', written over a horizontal line.

Richard K. Maddox
Special Agent
Bureau of Alcohol, Tobacco, Firearms and
Explosives

Subscribed and sworn to before me on the 5th day of October, 2021:

/s/ Susan Russ Walker

Susan Russ Walker
United States Magistrate Judge